

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Ann T. Farrar, et al)
 Dist. 24, Map 134, Control Map 134, Parcel 12.00,) Bedford County
 S.I. 000)
 Farm Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

FINDINGS OF FACT AND CONCLUSIONS OF LAW

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 26, 2008 in Shelbyville, Tennessee. In attendance at the hearing were Ann T. Farrar, the appellant, and Ronda Helton Clanton, Bedford County Property Assessor

Subject property consists of a 175.53 acre farm located at 220 Ike Farrar Road in Shelbyville, Tennessee. Subject property historically received preferential assessment under the greenbelt law (Tenn. Code Ann. § 67-5-1001, et seq.). In 2006, however, subject property was removed from the greenbelt program due to the new owner's failure to reapply. The new owner has since reapplied and preferential assessment has already been restored by the assessor for tax year 2007. The issue before the administrative judge concerns whether preferential assessment should also be reinstated for tax year 2006 and rollback taxes set aside.

Subject property has been in the taxpayer's family for many years. Following the death of the taxpayer's husband, an executrix's deed was executed on July 13, 2005 which effectively conveyed the taxpayer a life estate and other family members the remainder.

Tennessee Code Annotated, Section 67-5-1005(a)(1) provides as follows:

Any owner of land may apply for its classification as agricultural by filing a written application with the assessor of property by March 1 of the first year for which the classification is sought. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. New owners of the land who desire to continue the previous classification must apply with the assessor by March 1 in the year following transfer of ownership. New owners may establish eligibility after March 1 only by appeal pursuant to parts 14 and 15 of this chapter, duly filed after notice of the assessment change is sent by the assessor, and reapplication must be made as a condition to the hearing of the appeal.

The taxpayer failed to file a new greenbelt application because she did not receive the assessment change notice issued in May of 2006 and was grappling with issues associated with her husband's death.

Administrative Judge Andrei Lee previously conducted a jurisdictional hearing in this matter and concluded that the taxpayer had established reasonable cause under Tenn. Code Ann. § 67-5-1412(e) for not appealing to the Bedford County Board of Equalization. Accordingly Judge Lee entered an order on October 18, 2007 finding jurisdiction.

The administrative judge finds that under Tenn. Code Ann. § 67-5-1005(a)(1) a new greenbelt application should have been filed by March 1, 2006. However, the statute also effectively allows a taxpayer to file a "reasonable cause" appeal when a new application is not timely filed.

The administrative judge finds that the taxpayer's appeal was received by the State Board of Equalization on March 1, 2007. Thus, the taxpayer has timely filed a reasonable cause appeal under Tenn. Code Ann. § 67-5-1412(e). For the reasons stated in Judge Lee's order, the administrative judge finds that the taxpayer established reasonable cause for not timely filing a new greenbelt application.

Based upon the foregoing, the administrative judge finds that preferential assessment under the greenbelt law should be reinstated for tax year 2006 and the rollback taxes levied for that year must therefore be set aside.

ORDER

It is therefore ORDERED that subject property continue to receive preferential assessment under the greenbelt law for tax year 2006.

It is FURTHER ORDERED that the rollback taxes levied for tax year 2007 be set aside.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

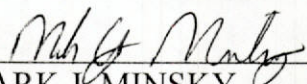
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 28th day of February, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Ann T. Farrar
Ronda Helton Clanton, Assessor of Property